IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 23188 of 2003

Between:

Sri T.Satyanarayana, s/o late Simhachalam
R/o Vajragadda Village, Makavarapalem Mandal,
Visakhapatnam District.

..... PETITIONER

AND

1 The District Election Authority-cum-The District Collector,
Visakhapatnam, Visakhapatnam Dist.,
2 The Divisional Election Authority-cum-The Revenue Divisional
Officer, Narsipatnam Revenue Division,
Narsipatnam, Visakhapatnam District.
3 The Election Officer-cum-The Mandal Revenue Officer,
Makavarapalem Mandal, Visakhapatnam Dist.,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the action of the 3rd respondent authority in issuing the proceedings Rc.No.172/UDRI/03, dated 30-10-2003, postponing the election of Peddatank Water Users Association as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy and contrary to the provisions of the Andhra Pradesh Farmers Management of Irrigation Systems Act and consequently direct the respondent authorities to conduct the election in pursuance of the notification dated 20-10-2003 of Peddatank Water Users Association, Vajragada Village, Makavarapalem Mandal, Visakhapatnam District

Counsel for the Petitioner: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent : GP FOR IRRIGATION & COMMAN AREA DEV. FOR R1 TO 3

The Court made the following ORDER:

Heard both sides.

The petitioner herein, who is a Member of the Peddatank Water Users Association of Vajragada village, filed this writ petition, *inter alia,* seeking to assail the impugned proceedings issued by the third respondent dated 30.10.2003. The process of elections is commenced after finalizing the voter's list issued along with the election notification. Even the said voters list has been published after following the due procedure and awaiting for the objections, which have been offered as per the notice issued earlier and though the elections were schedule to be held on 31.10.2003, on 28.10.2003 the respondents stayed the entire proceedings, at the instance of some other villagers, on the ground that their names are not being included in the voters list. It is submitted that once election process is commenced, the question of staying or otherwise cancelling is not procedural.

In support of his contention the learned counsel for the petitioner placed reliance on a decision in **Election Commission of India v. Ashok Kumar** wherein the Supreme Court held that once the Election Process is commenced, the same has to be given a logical end rather than stalling the same.

The learned Government Pleader submitted that some villagers of Vazragada Village have filed a petition before the Revenue Divisional Officer, Narsipatnam and Deputy District Election Authority alleging that the voters lists have not been prepared correctly and that some eligible voters have found no place in the voters list and ineligible voters are found place in voters list got prepared by the Mandal Revenue Officer, Makavarapalem and requested to stay the Election Process. Having regard to the same, the Election Authority in exercise of powers conferred under Rule-37 of Chapter-3 of A.P. Farmers management of Irrigation System (Conduct of Elections) Rules, 2003, stayed the election process.

Having considered the submissions made by both the counsel and also on

perusal of the material available on record, it is seen that there is no dispute to the fact that the notification was issued after the voters list has been finalized as per the rules and regulations. However, at the instance of some persons the same is sought to be stayed on 28.10.2003. Having regard to the principles laid down by the Apex Court in the aforesaid decision, it is not open to the respondents to again reopen the preparation of the voters list.

Having regard to the same, the writ petition is accordingly allowed and the impugned order dated 30.10.2003 is set aside. The respondents are directed to proceed and finalise the election from the stage where it was stayed.

26.07.2004

va

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the twenty six day of July, Two Thousand and Four.

To

1 The District Election Authority-cum-The District Collector, Visakhapatnam, Visakhapatnam Dist.,
2 The Divisional Election Authority-cum-The Revenue Divisional Officer, Narsipatnam Revenue Division, Narsipatnam, Visakhapatnam District.
3 The Election Officer-cum-The Mandal Revenue Officer, Makavarapalem Mandal, Visakhapatnam Dist.,
4 Two CCs to G.P. for Irrigation and CAD, High Court of A.P. Buildings, Hyderabad
5 Two CD Copies